

**PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
March 21, 2006**

Place: Room 206  
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING: Patrick Damanti, Joseph Spain and Ursula Forman, David Kenny arrived at 9:40 p.m.

STAFF ATTENDING: Director of Planning Jeremy Ginsberg and Assistant Director David Keating

COURT RECORDER: Bonnie Syat

---

The Commission meeting was called to order at 8:00 P.M. in Room 206 of the Town Hall.

Chairman Damanti noted that three members of the Commission constituted a quorum, but the first item of business would require that at least four members of the Commission participate in the discussion and decision. It was therefore decided to deal with matters out of order in order to accommodate the public present.

Director of Planning Jeremy Ginsberg noted that Commission member David Kenny had called and indicated that he was on his way but had been delayed due to traffic jams.

Chairman Damanti read the following agenda item:

**Informal discussion only regarding Michael Joseph's potential relocation to the Service Business (SB) Zone.**

Mr. Ginsberg explained that Michael Joseph's Catering on Heights Road has requested permission to relocate to a property in the Service Business (SB) Zone. At present, Michael Joseph's is a small store front from which the patrons can purchase food items. The main business is catering of private parties and functions at the clients' locations. The proposed use is to relocate the business to some of the available interior space at Nielsen's Florist and Garden Shop. Mr. Ginsberg indicated that a catering business is not typically allowed within the Service Business Zone because it does not require any external storage or activity on the site. He reminded the Commission that in 2000, the Commission had authorized Ben Izzy's to operate a fruit and vegetable stand within the Florist and Garden Shop at Nielsen's. The Commission had considered it an accessory use and likened the cut flowers of the florist and the live plants of the garden shop to the fruits and vegetables to be offered for sale. That business, Ben Izzy's, no longer operates at Nielsen's Florist and Garden Shop.

Gerry Nielsen explained that the proposed Michael Joseph's Catering would use a separate entrance from the Florist and Garden Shop, and the food would be prepared on site, and then would be delivered to external or off-site locations.

There was much discussion about the proposed use. Mr. Spain noted that the proposed catering business was not an adjunct or accessory use to the garden store, but there seems to be two separate

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 2

business operations. Although Mr. Nielsen had indicated that it would not be uncommon for the caterer to purchase flowers at the Garden Shop to be used as decorations at the catered affair, there would still be two separate business operations. Mr. Spain said that a loose interpretation of the Regulations could open up the zone to many other business uses that would be inappropriate, and it would break down the distinctions of the Zoning Regulations.

Mrs. Forman noted that the use is good, but not for the Service Business Zone, even if it has a delivery vehicle or two that needs to be stored or parked overnight at the site.

The Commission members discussed the matter further and concluded that they would put the matter on the agenda for the April 4, 2006 meeting for further discussion with additional members.

Chairman Damanti read the following agenda item:

**Installation of comfort station within Cherry Lawn Park, Brookside Road.**

Mr. Ginsberg explained that the Park and Recreation Commission has received a gift that would allow them to construct a comfort station for the convenience of the public. He reminded the Commission that when the Nature Center was approved, one of the agreements was that the restrooms in the lower level of the Nature Center building would be available for the public, even when the Nature Center was not open. This new facility will address some of the issues and concerns that have been created by that arrangement. He said that the proposed new comfort station is not a substantial improvement of the park facilities as generally recognized under Section 8-24 of the Connecticut General Statutes. He said that it would be a small building, tucked away in the park. He asked the Commission if they felt that review or action by the Architectural Review Board would be appropriate.

The Commission members discussed the situation and concluded that the proposed comfort station at Cherry Lawn Park would not require a referral under Section 8-24 of the Connecticut General Statutes because it was not a substantial improvement, and that it would not require further action or approval by the Planning and Zoning Commission. They also believed that it would not be necessary to have the Architectural Review Board review the plans for this small building.

Chairman Damanti read the following agenda item:

**Mandatory Referral, Darien Sewer Commission, St. Nicholas Road Sanitary Sewer Extension.**

Request by the Darien Sewer Commission to extend sanitary sewers 700 feet to serve an additional portion of St. Nicholas Road.

Commission members discussed the proposed sewer line extension and concluded that it was a logical extension and created no problems that they could think of. They also thought that it was consistent with the Town Plan of Development. They unanimously authorized the Director of Planning to send a positive report to the Public Works Department regarding this matter.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 3

Chairman Damanti read the following agenda item:

**2005/2006 Town Plan of Conservation & Development**

Discussion of comments received at public hearing and review and discussion of proposed changes to draft Plan. Once decision is made on changes, a “final” plan can be sent to the RTM for their review per Section 8-23 of the Connecticut General Statutes.

Commission members reviewed the memorandum of changes that had been worked on by Ursula Forman and Jeremy Ginsberg. They agreed with all those items. They asked that the matter be referred to the Representative Town Meeting as soon as possible, and that the RTM respond within 35 days. Comments from the RTM would be considered at a Public Hearing to be scheduled sometime in the end of April or early May.

The following agenda items are under Deliberation and Discussion.

**Coastal Site Plan Review #184-A, Flood Damage Prevention Application #195-A, Land Filling & Regrading Application #102-A, Friends of Goodwives River, 33 and 30 Goodwives River Road & 11 Queens Lane.** Proposing to repair the Upper Pond Dam, construct a fish ladder, remove approximately 9,000 cubic yards of sediment and restore aquatic and shoreline habitats of the Upper Pond and perform related site development activities within a regulated area.

The Commission asked the staff to draft a resolution to approve the project, and noted that a two-year time of completion would be appropriate. Action will be taken at a future meeting.

**Coastal Site Plan Review #60-A, Flood Damage Prevention Application #48-A, Joseph Coppola, 6 Cross Road.** Proposing to construct a new single-family residence, swimming pool with associated terrace and stone wall and perform related site development activities within regulated areas.

The Commission asked the staff to draft a resolution to approve the application subject to conditions and stipulations as extra precautions are required to protect the critical environmental features of the site. Action will be taken at a future meeting.

**Coastal Site Plan Review #217, Flood Damage Prevention Application #235, Land Filling & Regrading Application #158, Hugh & Susan Balloch, 15 Edgehill Drive.** Proposing to construct an in-ground swimming pool with associated terrace and perform related site development activities within regulated areas.

The Commission asked the staff to draft a resolution approving the revised plan, but noting that critical environmental controls would be necessary, and that during the construction process, monthly reports would need to be submitted by the project supervisor. Action will be taken at a future meeting.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 4

**Coastal Site Plan Review #216, Flood Damage Prevention Application #236, Land Filling & Regrading Application #157, Tokeneke Elementary School, 7 Old Farm Road.** Proposing to raze the existing school, construct a new school with associated play fields and parking area, and perform related site development activities within regulated areas.

The Commission asked the staff to draft a resolution approving the filling and regrading project, but to include mention of the traffic problems on Tokeneke Road and the inaccuracies in the traffic report, and the possibility of the Town installing flashing lights about the speed limit. They also noted that a copy of the decision should be sent to the local traffic authority, the Connecticut DOT, the Darien Police and other interested parties. Action on this matter will be taken at a future meeting.

David Kenny arrived at 9:40 p.m. This allowed the Commission to take action on the following agenda items:

**Proposed Amendment to the Darien Zoning Map, Peter Ike/1915 Post Rd, LLC, 1909-1915 Boston Post Road.** Proposing to amend the Darien Zoning Map to rezone a portion of the subject property (approximately 8,542 square feet) from Residential (R-1/3) to Neighborhood Business (NB). The subject property is located on the north side of Boston Post Road approximately 145 feet west of its intersection with Dickinson Road, and is shown on Assessor's Map #42 as Lot #5, in the NB and R-1/3 Zones. *PUBLIC HEARING CLOSED ON JANUARY 3, 2006. DECISION DEADLINE: MARCH 21, 2006.*

The following motion was made: That the Commission waive the process of reading each draft resolution aloud because each member had received a copy of the draft prior to the meeting. The motion was made by Joseph Spain and seconded by David Kenny and unanimously approved.

The Commission discussed the draft resolution regarding the Ike application. A motion to adopt the following resolution was made by Joseph Spain, seconded by David Kenny and unanimously approved.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
March 21, 2006**

Application Number: Proposed Amendment to Official Zoning Map

Tax Assessor's Map #42 Lot #5

Street Address: 1909 – 1915 Boston Post Road

Name and Address of Property Owner: Peter Ike / 1915 Post Road LLC  
775 Den Road  
Stamford, CT 06903

Name of Applicant &

Jeffrey McDougal

Michael Murray, Esq.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 5

Applicant's Representatives: William W. Seymour & Associates Ivey Barnum & O'Mara  
170 Noroton Avenue 65 Locust Ave  
Darien, CT 06820 New Canaan CT 06840

Activity Being Applied For: Proposal to amend the Darien Zoning Map by rezoning portions of the site from R-1/3 (residential zone) to Neighborhood Business (NB) in the vicinity of the Boston Post Road and Dickinson Road.

Property Location: The subject property is located on the North side of the Boston Post Road approximately 150 feet west of Dickinson Road.

Current Zones: Neighborhood Business along the Boston Post Road and more than 100 feet north of the Boston Post Road – R-1/3

Date of Public Hearing: September 27, 2005

Time and Place: 8:00 P.M. Auditorium Darien Town Hall

Publication of Hearing Notices

Dates: September 15, 2005 & September 22, 2005 Newspaper: Darien News-Review

Public Hearing continued on October 25, 2005, and November 29, 2005 and January 3, 2006

Date of Action: March 21, 2006

Action: DENIED AS UNNECESSARY

Scheduled Date of Publication of Action:  
March 30, 2006

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

1. The 0.71 +/- acre split-zoned property (which is located in two zones) contains one single-family residence completely in the residential zone on the northerly portion of the site. Also in the residential zone are a three car garage structure and several small storage buildings. In the commercially zoned portion of the site (within 100 feet of the Boston Post Road), there is a house that contains up to three dwelling units, and a one story, commercial building that contains the storage facilities for Flaherty Plumbing & Heating in the rear section (what was formerly a greenhouse), the offices of Flaherty Plumbing & Heating in the center section, and what was formerly a florist shop, then a barber shop and most recently an insurance agency office in the front section. Slightly more than three quarters of the property (the northern portion of the property) is within the R-1/3 Zone which has a 0.33 acre minimum lot size, and approximately slightly less than 25% of the subject property is in the Neighborhood Business (NB) Zone (the southern portion of the property which is approximately 75 feet wide and within 100 feet of the Boston Post Road). The zone boundary between the R-1/3 and NB districts is 100' to the north of the Boston Post Road right of way. There are no known wetlands or watercourses on the property. The applicant proposes to amend the Darien Zoning Map by moving the boundary approximately 87 feet to the north, thus creating more area within the NB Zone.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 6

2. A sketch map in the file includes the notation Kirschbaum 1939. It is a hand-drawn sketch that shows the store, and greenhouse and work room area as a 200 foot long building and starting about 30 feet back from the Boston Post Road and extending well into the residential zone. This map might have been a sketch of what someone wanted, but there is no record that it is actually what existed. For example, the store portion of the building is actually very close to the Boston Post Road and is not set back 30 feet from the road the way it is shown on the sketch. Also, the greenhouse is not 150 feet long as indicated in the sketch, but rather it is approximately about 75 feet long as shown on the 1943 map.
3. The 1943 map (which was derived using a 1939 outline) shows the house on the east side of the property and approximately 30 feet back from the Boston Post Road. It also shows the store on the west side of the property being immediately adjacent to the Boston Post Road and behind it is the long greenhouse structure. Both the store and greenhouse are within the Business Zone. This 1943 map also shows two garages, each measuring approximately 10'x16', and two sheds, all of which are located in the residential zone. Apparently, virtually all of the activity was confined to the commercial zone because that is where the flower shop and greenhouses were located as well as the Kirschbaum residence (the house located in the commercial zone). The residential zone was only used for the miscellaneous storage in the sheds and the two garages.
4. In 1963, the property was conveyed from Kirschbaum to the Flaherty family. As noted in Volume 242 Page 90 of the Darien Land Records, Kirschbaum maintained life use of the front residential building along with use of one of the spaces in the garage (apparently by this time the smaller separate garages had been replaced with a single building, a three car garage). No Building Permit has been found to indicate when that three car garage was constructed. Kirschbaum also retained a right of access from Boston Post Road through the commercial property to the garage plus use of the yard in front of the house. There is no mention about this house being used as anything other than a single family residence.
5. In 1964, Flaherty applied to the Zoning Board of Appeals (ZBA) for a variance to create Parcel B so that another single family house could be constructed. Parcel B was all of the property in the residential zone plus a 15 foot wide strip located to the east of the (Kirschbaum) house that already existed within the commercial zone. The Zoning Board of Appeals approved the variance (Calendar No. 44-1964). The map submitted with the application indicates the existing two story and attic frame house in the commercial zone (the Kirschbaum house) along with the frame barber shop (what used to be the flower store) immediately adjacent to the Boston Post Road and office and storage area (the old greenhouse). The map also shows a concrete block garage located on Parcel B (this is the three car garage) and shows the extent of the asphalt pavement being equal to the north edge of the concrete block garage.
6. According to the May 5, 2005 letter from Martin Flaherty, he indicates that the area was paved 41 years ago (in 1964). This would coincide with the indication of the asphalt paving as shown on the map that was submitted with the 1964 variance application.
7. In 1963, Building Permit No. 9267 was issued for alteration of the commercial building. It was noted that the property was located in a CB Zone (now the property is in the Neighborhood Business or NB Zone). The Certificate of Occupancy for that work was issued in June of 1963.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 7

8. In September of 1964, Building Permit No. 9837 was granted to construct a new dwelling on Parcel B (the rear lot). The application for Building Permit notes that the other building located on Parcel B was the garage in the southwest corner of the site. It does not mention the commercial buildings or the other house in the commercial zone (probably because those were to be located on Parcel A). The Certificate of Occupancy No. 3428 was issued in February 1965 for the new house on Parcel B.
9. In May of 1969, Building Permit No. 11489 was issued for the renovation of the commercial building on the front portion of the property.
10. Apparently over the years, the use of the house in the commercial zone has changed from a single family residence to contain three dwelling units. According to the letter from Mr. Flaherty to Wilder Gleason, apparently Mr. Kirschbaum's son and daughter-in-law moved into the second floor to take care of Mr. Kirschbaum who lived on the first floor. When the son and daughter-in-law had marital difficulties, one of them moved into the first floor (that is probably when an efficiency type apartment was created on the first floor). In the years that followed, health workers caring for Mr. Kirschbaum lived in the efficiency apartment from time to time. Most recently, all three units in the dwelling have been rented. No zoning approvals or Building Permits have been found that authorize the conversion of the single family dwelling to contain any additional dwelling units.
11. The use of the flower store adjacent to the Boston Post Road was apparently changed at some point to a barber shop and was most recently an insurance office. The one-story greenhouse portion of the structure located just north of the flower shop has been used for the offices and storage area of Flaherty Plumbing & Heating since approximately 1963.
12. The extent of paving on the property has apparently now been expanded to include an area approximately 10 feet north of the concrete block garage and coinciding with a fence line. Based upon the submitted materials, it appears that the pavement has also been expanded to surround the concrete block garage.
13. The zone change request is to amend the Zoning Map and include all of the asphalt paved area in the commercial zone. This would extend the zone boundary 86.75 feet north of the existing zone boundary line. The depth of the proposed NB Zone would be 186.75 feet north of the Boston Post Road. To the west of the site, the commercial zone is 100 feet north of the Boston Post Road. To the east of the site, the commercial zone extends 150 feet north of the Boston Post Road and includes all of the bank site and parking area.
14. Several neighbors have written letters to the Planning & Zoning Commission expressing their opposition to re-zoning any portion of the property from residential to commercial. No letters of support from any neighbors for the rezoning were submitted.
15. The proposed new zone boundary line would not be consistent with any zone boundary line or with any property line or with any legally established commercial use line. It could establish a substantial precedent by expanding the commercial zone into the residential zone.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 8

16. The requested re-zoning could be used to support expanded commercial use of what is already a fully developed area north of Boston Post Road. This would be contrary to the expressed desires of the neighbors and contrary to and inconsistent with the 1995 Town Plan of Development as noted herein.
17. The Planning & Zoning Commission is now working on the update of the Town Plan of Conservation & Development. However, the 1995 Town Plan of Development is currently in effect. On page 54 of that 1995 Plan, it notes that one of the objectives and policies of commercial development is to “Maintain existing business districts **in their current sizes and locations** and take actions to retain the existing scale of development, while improving the viability and appearance of commercial areas.” (Emphasis added.)
18. On page 64 of the 1995 Town Plan of Development, it reads in part “**The long standing policy, that Darien’s commercial districts will not be expanded in any significant manner into residential areas**, continues in effect, but it has been recognized that sound steps must be taken to make these existing commercial districts as viable as possible for the Town and the business community alike.” (Emphasis added.) While the proposed 87 foot expansion of the Neighborhood Business Zone may not seem to be significant with respect to total area, it would be significant with respect to its potential impact on the surrounding neighbors (as noted in the neighbors’ strong objections) and it would create a highly irregular zone boundary line that would lose its consistency compared to the existing layout.
19. Page 74 of the 1995 Town Plan of Development reads in part “The Neighborhood Business (NB) Zone has long been the most restrictive commercial zone in Darien because of its **unique proximity to adjoining residential areas**, the small size of this zone, **the small scale of existing development**, the historic features within the zone and. . . Any future commercial uses **must be compatible with the character of the immediate neighborhood** and shall principally serve the local residential neighborhood.” (Emphasis added.) While the existing development is not in conflict with the compatibility with the immediate neighborhood, an expansion of the Neighborhood Business Zone could easily create conflicts and incompatibility with the character of the immediate neighborhood by allowing more intense development and/or use of what has historically been residentially zoned property.
20. Page 76 of the 1995 Town Plan of Development lists proposed objectives for commercial development and includes “Take steps to retain the existing business districts and the existing scale of business development while improving the viability and appearance of commercial areas.” and “Continually attempt to establish improved buffer areas between commercial and residential districts.” The proposed expansion of the Neighborhood Business (NB) zone would not retain the existing business district nor the existing scale of business development and the proposed change would also not establish or improve the buffer area between commercial and residential district that surrounds it.

**For all of the above reasons, the Planning & Zoning Commission denies as unnecessary the requested amendment to the zoning map. The current zone boundary for the property remains 100 feet to the north of and parallel to the right-of-way of the Boston Post Road. The remaining portion of the property shall remain in the R-½ single family residential zone.**



PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 9

The Commission notes that there has been much discussion about the use of the commercial property and of the parking area immediately to the north of the commercial zone and located in the residential zone. The Commission finds that:

- A. The only approved use of the residence in the commercial property is as a single family dwelling. No additional apartments or dwelling units are permitted.
- B. The only approved use of the residence on the north portion of the property is as a single family dwelling. No additional dwelling units or apartments are permitted. The use must be in accordance with the single family residential zone Regulations which allow only one kitchen and no more than three roomers or boarders to reside on the premises. It is understood that steps have been taken to correct the previous violation of that limitation in that "north portion" residence.
- C. The use of the former greenhouse structure has been the small offices of and large workshop and storage area of Flaherty Plumbing & Heating since approximately 1964. That use may continue. The office use may not be expanded into the storage/workshop area. Parking for Flaherty Plumbing & Heating, service vans and small pick-up trucks may continue in the residential zone as it apparently has been occurring since 1964 but only to the extent that the parking can occur immediately adjacent to the zone boundary line and to the south of the concrete garage structure and within two bays of the concrete garage structure. No commercial or business related parking is allowed on any portion of the asphalt pavement located north of the north wall of the garage or the extended line of that same garage wall.
- D. The storage containers or sheds or structures located within the residential zone can only be used for storage related to the residential use of the single family house on the north portion of the lot or the single family house on the commercial property. Use of detached storage structures for Flaherty Plumbing & Heating or for any other business or commercial operation has never been authorized and is not permitted. Flaherty Plumbing & Heating storage is to be located in the former greenhouse structure. No exterior storage of supplies, equipment or other materials has been approved or authorized by the Commission and none is permitted. The overnight parking of up to ten small pick-up trucks and/or service vans for Flaherty Plumbing & Heating is permitted within two of the bays of the concrete garage and on the asphalt parking area immediately adjacent to the zone boundary line.
- E. In accordance with Section 602 of the Darien Zoning Regulations that requires specific review and prior authorization by the Commission for each and every use within the NB Zone, the previously requested use of the former insurance agency and former barber shop and former flower shop to become New England Window & Door is allowed but, it is noted that there is no on-site parking to service this use. The only parking available for this commercial operation is the on-street parking. Parking affiliated with New England Window & Door is not permitted within the residential zone. Storage of vehicles, supplies, materials or any other material related to New England Window & Door is not permitted outside, nor in the residential zone, nor within the residence in the commercial zone.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 10

- F. Any new use, change of use or occupancy by a different tenant of any of the commercial space within the Neighborhood Business Zone will require prior review and action by the Planning and Zoning Commission in accordance with Section 602 of the Regulations.
- G. Parking for the single family residence located within the commercial zone may occur within one of the three stalls within the concrete block garage located in the residential zone and may occur within other portions of the previously paved area of the residential zone. It cannot occur within the NB Zone because it would obstruct the existing driveway or would require converting the front yard into a parking area, neither of which is proposed or acceptable.
- H. It appears that Flaherty never properly completed the aspect of Zoning Board of Appeals Calendar #44-1964 with respect to the creation of a separate Parcel B to contain the new dwelling unit located on the north portion of the site. According to the submitted materials, Parcel B was to be a separate parcel from Parcel A. Parcel A would contain the barber shop, old greenhouse and single family residence in the commercial zone. Parcel B would be all of the residentially-zoned portion of the property plus a 15 foot wide strip of land located to the east of the house within the commercial zone and extending from the Boston Post Road to the residential zone property line. A review of the language of the Zoning Board of Appeals Resolution does not indicate a time limitation on implementing the separate lot status and therefore it must be implemented at this time by the proper filing of appropriate surveys and maps and deeds to indicate that Parcel A contains only commercial space and Parcel B contains all of the residentially zoned portion of the property plus the access strip through the commercial zone.

Chairman Damanti read the following agenda item:

**Special Permit Application #241, Land Filling & Regrading Application #153, Rich & Karen Coyle, 28 Briar Brae Road.** Proposing to construct a 25' x 30' play court in the southeast corner of the property and perform related site development activities. The subject property is located on the southeast side of Briar Brae Road, approximately 1,000 feet northeast of its intersection with Hoyt Street, and is shown on Assessor's Map #29 as Lot #33 in the R-1/2 Zone. *PUBLIC HEARING CLOSED ON JANUARY 24, 2006. DECISION DEADLINE: MARCH 29, 2006.*

The Commission members discussed the draft resolution. The following motion was made: That the Commission adopt the following resolution to approve the application subject to the conditions and stipulations as noted. The motion was made by Mrs. Forman, seconded by Mr. Spain and unanimously approved.

PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
March 21, 2006

Application Number: Special Permit Application # 241 and  
Land Filling and Regrading Application # 153

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 11

Tax Assessor's Map # 57 Lot # 34

Street Address: 28 Briar Brae Road

Name and Address of Property Owner: Rich and Karen Coyle  
and Applicant 28 Briar Brae Road  
Darien, CT 06820

Activity Being Applied For: Proposing to install a 25' x 30' play court in the southeast corner of the property and perform related site development activities.

Property Location: The subject property is located on the southeast of Briar Brae Road, approximately 1000 feet northeast of its intersection with Hoyt Street.

Zone: R-1/2

Date of Public Hearing: January 24, 2006

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: January 8 and 15, 2006

Newspaper: Darien News-Review

Date of Action: March 21, 2006

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News-Review  
March 30, 2006

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the property owners/applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 12

1. In 2005, excavation and regrading for the play court was started without the benefit of proper permits or approvals. When advised of the need for such permits, work was discontinued.
2. An application was submitted by Mr. & Mrs. Coyle in December of 2005. The proposed work for the play court to be located in the southeast corner of the site involves the use of approximately 40 cubic yards of fill and 2 cubic yards of topsoil. The result will raise the grade in the northwest corner of the proposed play court by approximately one and one half feet. The 3'x 3' drywell will be installed to accommodate the increase in storm water runoff generated by this new impervious surface area.
3. A 1954 map of the subdivision of the neighborhood was submitted for reference. The site plan illustrating the proposed location of the play court is actually a copy of a 1997 survey map onto which information about the play court has been added. The play court would be located in the southeast corner of the property approximately 17 feet from the southerly property line and 14 feet from the easterly property line. The 25'x 30' play court would be used for a portion of a basketball court (one hoop would be installed on the east side of the play area) as well as riding of small bikes and playing of games that require a hard surface.
4. A Landscape Plan was submitted on January 13, 2006. This plan shows the installation of forsythia bushes on the east side of the proposed court, three spruce trees to be planted on the south side of the court, decorative spirea on the west edge of the court and decorative fountain grasses on the north side of the court.
5. Photographs were submitted to illustrate that it is not practical or safe to create a basketball play area in the driveway due to the slope of the driveway and the adjacent retaining wall and 3 to 4 foot change in grade. The back terrace immediately adjacent to the house has most recently been used as a basketball play area. Mr. Coyle said that this is inadequate as the children grow.
6. The proposed play court is defined as an accessory structure and is accessory to the principal use of the property which is a single family residence.
7. Four letters from neighbors in support or not opposed to the application were submitted.
8. James Perkins and Bridget Tobin, neighbors at 20 Briar Brae, immediately to the east of the applicants' site, spoke at the hearing and submitted photographs and written materials in opposition to the application. They claim that the proposed play court: will not be in harmony with the neighborhood; will hinder and discourage appropriate development and use of adjacent lands; and will result in excessive noise and impair property values. Commission members disagree with all of the above.
9. Perkins/Tobin also object to the court because they feel it is in response to recent house improvements that they have made and disputes involving a driveway use agreement and swing set relocation on the Coyle property. Whether or not this contention is accurate would have no bearing with respect to the issues that are relevant to this application.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 13

10. As approved herein, the play court will be in harmony with the orderly development of the district and will not adversely affect the development, use or value of adjacent land and buildings.
11. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
12. The proposal conforms to the standards for approval as specified in Section 1005(a) through (g) of the Darien Zoning Regulations.

Now therefore, be it resolved that Special Permit Application # 241 and Land Filling and Regrading Application # 153 are hereby modified and granted subject to the foregoing and following stipulations, conditions, modifications and understandings:

- A. Construction of the play court shall be in accordance with the plans and materials submitted to the Commission. The location of the basketball hoop support post shall be on the east side of the play court and the portion of the support structure closest to the property line shall be located at least 10 feet from the east property line.
- B. The proposed play court construction does not involve the installation of any lights and no such lighting is hereby permitted.
- C. The plan submitted with the application includes the installation of a drywell to manage the additional runoff to be created by the impervious surface. This drywell must be installed prior to the completion of the project and/or use of the court.
- D. The landscaping plan does not specify the size of the proposed forsythia bushes or spruce trees. The submitted plan calls for the installation of at least 10 forsythia bushes on the east side of the property (along the Perkins/Tobin property line) and each forsythia bush shall be at least 4 foot tall at time of planting. Forsythia is not an evergreen, but will grow very quickly to provide a softening of the view of the play court from the neighboring properties. The three spruce trees proposed along the southerly property line shall each be at least 6 feet tall and shall be spaced on the site to facilitate the preservation of the existing maple tree and other vegetation in the area and to provide some screening of the view of the play court from the adjacent property to the south.
- E. Sediment and erosion controls shall be installed to properly manage storm water runoff and to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning & Zoning Department shall be notified prior to resumption of work and after the sediment and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient. All erosion control measures shall be maintained until the disturbed areas are stabilized.
- F. In evaluating this application, the Planning & Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive,

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 14

incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

- G. The granting of this Special Permit does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. Zoning and Building Permits will be necessary prior to the resumption of construction of the play court.
- H. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action by (March 20, 2007). This may be extended as per Sections 858 and 1009.

All provisions and details of the plan, as required herein to be amended, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. Within sixty days of this action, a Special Permit form must be filed in the Darien Land Records, or this approval shall become null and void.

Chairman Damanti read the following agenda item:

**Land Filling & Regrading Application #151, Tom Bow, 499 Hoyt Street**. Proposing to excavate, fill, and regrade to construct swimming pool and associated terrace and perform related site development activities

The Commission discussed the draft resolution. The following motion was made: That the Commission adopt the following resolution and approve the project with the conditions and stipulations as noted. The motion was made by Mr. Spain, seconded by Mrs. Forman and unanimously approved.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
March 21, 2006**

Application Number: Land Filling & Regrading Application #151

Street Address: 499 Hoyt Street  
Assessor's Map #3 Lot #120

Name and Address of Property Owner:	Tom Bow 499 Hoyt Street Darien, CT 06820
--	--

Name and Address of Applicant & Applicant's Representative:	Ricardo Hernandez Alpha Pools 38 Allview Avenue
--	---

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 15

Norwalk, CT 06854

Activity Being Applied For: Proposing to excavate, fill, and regrade to construct swimming pool and associated terrace and perform related site development activities.

Property Location: The subject property is located on the east side of Hoyt Street, approximately 100 feet south of its intersection with Leeds Lane.

Zone: R-1/2 Zone

Date of Public Hearing: February 28, 2006

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: February 16 & 23, 2006

Newspaper: Darien News-Review

Date of Action: March 21, 2006

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of  
Action: March 30, 2006

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plan, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application is to excavate, fill, and regrade to construct swimming pool and associated terrace and perform related site development activities.
2. An Environmental Protection Commission (EPC) approval was recently granted for this project (EPC #102-2005). That approval is hereby incorporated by reference.
3. At the public hearing, the applicant noted that there will be no detrimental effect on the adjacent neighbors.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 16

4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #151 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Filling and regrading shall be in accordance with the following plan submitted to and reviewed by the Commission:
  - Bow Residence, 499 Hoyt Street, Pool/Landscape Design, by Heather Lane Design / Tony Inch, date 11/01/05.
- B. At the public hearing, it was noted that no fencing or combination of fencing and walls may be higher than six feet. A pool fence is required around the swimming pool. Final plans shall be revised to reflect the pool fence and any retaining walls and that their proposed height shall not exceed six (6) feet.
- C. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond. Upon completion of the work, the applicant shall provide written verification and photographs documenting completion of the project and compliance with the approved plans.
- D. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site of the regrading will not have any negative impacts upon the adjacent property(ies).. If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- E. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.



PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 17

- G. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- H. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (March 20, 2007). This may be extended as per Sections 858 and 1009.

All provisions and details of the application, as required to be modified herein, shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Chairman Damanti read the following agenda item:

**Land Filling & Regrading Application #155, Jenny Schwartz, 8 Saddle Ridge Road.** Proposing to regrade in association with the construction of a new driveway and parking area and perform related site development activities.

The Commission members discussed the draft resolution. The following motion was made: That the Commission adopt the following resolution and approve the application subject to the conditions and stipulations as noted. The motion was made by Mr. Kenny, seconded by Mr. Spain and unanimously approved.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
March 21, 2006**

Application Number: Land Filling & Regrading Application #155

Street Address: 8 Saddle Ridge Road  
Assessor's Map #6 Lot #155

Name and Address of	Jennie Schwartz
Property Owner:	8 Saddle Ridge Road
	Darien, CT 06820

Activity Being Applied For: Proposing to regrade in association with the construction of a new driveway and parking area and perform related site development activities.

Property Location: The subject property is located on the south side of Saddle Ridge Road, approximately 500 feet west of its intersection with Middlesex Road.

Zone: R-2 Zone

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 18

Date of Public Hearing: February 28, 2006

Time and Place: 8:00 P.M.      Room 206      Town Hall

Publication of Hearing Notices

Dates: February 16 & 23, 2006

Newspaper: Darien News-Review

Date of Action: March 21, 2006

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of  
Action: March 30, 2006

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plan, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The applicants propose to demolish the existing house and build a replacement residence. The subject application is to regrade in association with the construction of a new driveway and parking area and perform related site development activities. The plans reflect reduced steepness in the driveway grade.
2. At the public hearing, the applicant noted that there will be no impact on the existing septic system.
3. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #155 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 19

- A. Filling and regrading shall be in accordance with the following plan submitted to and reviewed by the Commission:
- Site Grading & Drainage Plan for 8 Saddle Ridge Road, prepared for Kevin R. and Jennifer A. Schwartz, by Land Engineering Associates, dated 8/2/05.
- B. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond. Upon completion of the work, the applicant shall provide written verification and photographs documenting completion of the project and compliance with the approved plans.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site of the regrading will not have any negative impacts upon the adjacent property(ies) and/or the nearby private street. If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- F. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agencies.
- G. This permit shall be subject to the provisions of Section 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (March 20, 2007). This may be extended as per Section 858 and 1009.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Chairman Damanti read the following agenda item:

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 20

**Coastal Site Plan Review #204-A, Flood Damage Prevention Application #218-A, James & Susan Ramsey, 136 Pear Tree Point Road.** Proposing to construct a new swimming pool and spa with associated terrace and pool house and perform related site development activities within regulated areas.

The Commission members discussed the draft resolution. The following motion was made: That the Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mrs. Forman, seconded by Mr. Kenny and unanimously approved.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
March 21, 2006**

Application Number: Coastal Site Plan Review #204-A  
Flood Damage Prevention Application #218-A

Assessor's Map #60 Lot #38, #39, #40

Name and Address of Property Owner: James and Susan Ramsey  
And Applicant: 136 Pear Tree Point Road  
Darien, CT 06820

Name and Address of Applicant's Representative: Kevin Huelster  
Huelster Design Studio, LLC  
61 Jesup Road  
Westport, CT 06880

Activity Being Applied For: Proposing to construct a new swimming pool and spa with associated terrace and pool house and perform related site development activities within regulated areas.

Property Location: The subject property is located on the east side of Pear Tree Point Road, approximately 500 feet south of its intersection with Crane Road.

Zone: R-1

Date of Public Hearing: February 28, 2006

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices  
Dates: February 16 & 23, 2006

Newspaper: Darien News-Review

Date of Action: March 21, 2006

Action: GRANTED WITH STIPULATIONS

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 21

Scheduled Date of Publication of  
Action: March 30, 2006

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810 and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The applicant proposes to construct a new swimming pool and spa with associated terrace and pool house and perform related site development activities within regulated areas.
2. A project to construct additions and alterations to the existing residence is now ongoing.
3. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
4. The proposed activity will have no adverse impacts on flooding and, therefore, this proposal is consistent with the need to minimize flood damage.
5. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
6. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
7. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #204-A and Flood Damage Prevention Application #218-A are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 22

- A. All work shall be in accordance with the plans submitted to and reviewed by the Commission. These include:
- Improvement Location Survey, Proposed prepared for James A. Ramsey and Susan E. Ramsey, by Ryan and Faulds, LLC, scale 1" = 30', dated August 7, 1997 and last revised to January 18, 2006.
  - Additions & Alterations to the: The Ramsey Residence 136 Pear Tree Point Road, by Huelster Design Studio, Issue Date: 01/20/06, Site Plan Sheet No. A1.0.
  - A Pool House for the: The Ramsey Residence 136 Pear Tree Point Road, by Huelster Design Studio, Issue Date: 01/20/06, Pool House Sheet No. A1.1.
- B. The extent of site disturbance and site regrading is shown on the submitted plans. No additional filling or regrading is permitted.
- C. All pool equipment must be located to comply with the setback requirements of the Regulations and with the minimum height requirements of the flood hazard zone.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. A final "as-built" survey is hereby required to verify that swimming pool and pool house within the flood hazard area are in compliance with the approved plans and the Flood Damage Prevention Regulations. Prior to the request for a Certificate of Zoning Compliance, the applicant shall submit written verification from the project engineer that all aspects of the construction, site regrading, re-vegetation of disturbed areas and utility installation have been completed in compliance with the approved plans and the Flood Damage Prevention Regulations.
- F. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- H. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (March 20, 2007). This may be extended as per Sections 815 and 829f.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 23

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Chairman Damanti read the following agenda item:

**Land Filling & Regrading Application #156, Steven & Michelle Luttrell, 107 Long Neck Point Road.** Proposing to create an elevated lawn area with associated retaining walls and perform related site development activities.

The Commission members discussed the draft resolution. The following motion was made: That the Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Kenny, seconded by Mr. Spain and unanimously approved.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
March 21, 2006**

Application Number: Land Filling & Regrading Application #156

Street Address: 107 Long Neck Point Road  
Assessor's Map #59 Lot #3 & #4

Name and Address of Applicant & Applicant's Representative: Sean O'Kane, AIA  
412 Main Street—Suite 8  
Ridgefield, CT 06877

Name and Address of Property Owner: Steven & Michelle Luttrell  
107 Long Neck Point Road  
Darien, CT 06820

Activity Being Applied For: Proposing to create an elevated lawn area with associated retaining walls and perform related site development activities.

Property Location: The subject property is located on the east side of Long Neck Point Road, approximately 900 feet north of its southernmost intersection with Pear Tree Point Road.

Zone: R-1 Zone

Date of Public Hearing: March 7, 2006

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: February 23 & March 2, 2006

Newspaper: Darien News-Review

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 24

Date of Action: March 21, 2006

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of  
Action: March 30, 2006

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application is to create an elevated lawn area with associated retaining walls and perform related site development activities.
2. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
3. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #156 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Filling and regrading shall be in accordance with the following plans submitted to and reviewed by the Commission:
  - Luttrell Residence, 107 Long Neck Point Road, Proposed Drain System by DiVesta Civil Engineering Associates, Inc., dated 10/5/05, Sheet 1 of 1.
  - The Residence of: Mr. & Mrs. Steven J. Luttrell, Utility Site Details by Sean O'Kane, Architect, dated 1/16/06, A1a.
- B. None of the proposed regrading or retaining wall construction is within the critical 100 foot wide area adjacent to the coastal waters of Long Island Sound and/or the wetlands shore area. No activity of any kind, including but not limited to, disturbance of vegetation or the ground, is authorized in that very sensitive and highly regulated area.



PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 25

- C. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond. Upon completion of the work, the applicant shall provide written verification and photographs documenting completion of the project and compliance with the approved plans. This shall include certification from the project engineer that the proposed drainage system was installed per the approved plans.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site of the regrading will not have any negative impacts upon the adjacent property(ies), the adjacent coastal waters, and/or Long Neck Point Road. If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agencies.
- H. This permit shall be subject to the provisions of Section 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (March 20, 2007). This may be extended as per Section 858 and 1009.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Chairman Damanti read the following agenda item:

**Flood Damage Prevention Application #233, Gregory & Elizabeth Myers, 20 Mayflower Road.** Proposing to raze the existing residence and construct a new single-family residence and perform related site development activities within a regulated area.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 26

The Commission discussed the draft resolution. The following motion was made: That the Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mrs. Forman, seconded by Mr. Spain and unanimously approved.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
March 21, 2006**

Application Number: Flood Damage Prevention Application #233

Street Address: 20 Mayflower Road  
Assessor's Map #55 Lot #48

Name and Address of Property Owners: Gregory D & Elizabeth P. Myers  
20 Mayflower Road  
Darien, CT 06820

Name and Address of Applicant And Applicant's Representative: Wilder G. Gleason, Esq.  
Gleason & Associates, LLC  
455 Boston Post Road, Suite 201  
Darien, CT 06820

Activity Being Applied For: Proposing to raze the existing residence and construct a new single-family residence and perform related site development activities within a regulated area.

Property Location: The subject property is located on the west side of Mayflower Road, approximately 160 feet south of its intersection with Shipway Road.

Zone: R-NBD

Date of Public Hearing: March 7, 2006

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: February 23 & March 2, 2006

Newspaper: Darien News-Review

Date of Action: March 21, 2006

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
March 30, 2006

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 27

- the proposed use and activities must comply with all provisions of Sections 410-417 inclusive and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. This application is a Flood Damage Prevention application under Section 820 of the Darien Zoning Regulations to raze the existing residence and construct a new single-family residence and perform related site development activities within a regulated area. This is an undersized lot within the R-NBD Zone. In order to comply with the flood regulations, the first floor of the new residence will be constructed at elevation 12.0 feet above sea level, which is one foot higher than the expected flood level in a 100 year frequency flood event.
2. The foundation will be designed to comply with the Flood Damage Prevention Regulations. During the public hearing on this matter, the applicant's representative confirmed that they will not be changing the topography of the property.
3. The originally submitted plans for this application showed a second parking space which did not comply with the Zoning Regulations. Revised plans were submitted which reflects a second parking space which does comply with the Regulations.
4. This property is not adjacent to tidal wetlands, and based upon the submitted proposal and the application materials which show the proposed activity more than 150 feet away from tidal wetlands, the Commission finds that there are no coastal impacts from this project, and hereby waives the requirement for Coastal Site Plan Review.
5. The applicant's representative noted within the application materials that the proposed activity will have no adverse impacts on flooding on adjacent properties and will withstand the flood depths, pressures, velocities, impact and uplift forces associated with the base flood. All mechanical and electrical equipment will be elevated to a minimum of elevation 11.0.
6. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 28

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #233 is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction shall be in accordance with the plans entitled:
  - Zoning Location Survey #20 Mayflower Road prepared for Gregory D. Myers Elizabeth P. Myers, scale 1"=20', by William W. Seymour & Associates, last revised January 17, 2006 (except that the location of 2<sup>nd</sup> required parking space has been superseded).
  - Myers Residence, 20 Mayflower Drive Site Plan by Stearns & Wheler, LLC, dated 1/20/06 and last issued 2/7/06 (showing revised location of second parking space).
  - The Myers Residence by Robert A. Cardello Architects, dated 1-20-06, Drawing C-1, A-1.1 through A-1.4, A-2.0, A-2.1
- B. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design of the foundation complies with the applicable flood damage prevention requirements.
- C. Because of the requirement to have a second parking space on-site, the area shown as gravel driveway on the Stearns & Wheler 2/7/06 plan shall remain gravel, and cannot be changed to lawn area. This area shall be "graveled in" prior to the issuance of a Certificate of Occupancy for the new residence.
- D. No filling or regrading of the site has been requested or shown on the submitted plans. No filling or regrading is authorized.
- E. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls, plus any additional measures as may be needed due to site conditions, shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- F. Prior to the request for a Certificate of Zoning Compliance, the applicant shall submit written verification from the project engineer that all aspects of the construction, site regrading, re-vegetation of disturbed areas and utility installation have been completed in compliance with the approved plans and the Flood Damage Prevention Regulations.
- G. During the construction, as soon as the foundation is in place and the first floor decking has been installed, the applicant shall submit an as-built survey to verify that the structure complies with the zoning regulations with respect to setback requirements and minimum floor elevation.
- H. Once the construction work is complete and prior to the issuance of a Certificate of Occupancy, the applicant shall submit verification from the project engineer or architect that all aspects of the building construction and storm water management system have been completed in

PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
MARCH 21, 2006  
PAGE 29

compliance with the approved plans and the flood damage prevention regulations. A final “as-built” survey is hereby required to verify that the final grading and site work and parking spaces are in compliance with the approved plans and the Flood Damage Prevention Regulations.

- I. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- J. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- K. This permit shall be subject to the provisions of Section 829 f of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation of the approved plan within one year of this action (March 20, 2007). This may be extended as per Section 829f.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Chairman Damanti read the following agenda item:

**Amendment of Business Site Plan #171-B, Pear Partners, 1063 Boston Post Road, CBD Zone.**  
Proposed modifications to plans approved by the Planning and Zoning Commission.

The Commission discussed the modifications to the interior floor plan. The uses would still be a retail store on the ground floor, a bank on the ground floor, and offices on the second floor. The Commission members discussed the requested changes to the interior floor space and approved the modification. The motion to approve was made by Mr. Kenny, seconded by Mr. Spain and unanimously approved.

**Approval of Minutes**

The Commission decided to postpone discussion of minutes until a future meeting.

There being no further business, the meeting was adjourned at 10:15 P.M.

Respectfully submitted,

David J. Keating  
Assistant Director Planning and Zoning